

REMARKS

This Amendment amends independent claims 22 and 36. Support for the amendments may be found, for example, on page 7, lines 13-17 of the application.

Claims 22, 27, and 36 stand rejected under 35 U.S.C. § 102(b) for anticipation by U.S. Patent No. 4,175,860 to Bacus ("Bacus '860"). Claims 23, 30, and 37 stand rejected under 35 U.S.C. § 103(a) for obviousness over Bacus '860 in view of U.S. Patent No. 6,297,825 to Madden et al. ("Madden"). Claims 24-26, 28, 29, 31, 33-35, and 38-42 stand rejected under U.S.C. § 103(a) for obviousness over Bacus '860 in view of U.S. Patent No. 5,134,662 to Bacus et al. ("Bacus '662"). Applicant respectfully traverses these rejections for the following reasons.

As amended, independent claim 22 is directed to a device for selecting and recording an image which forms part of an irradiated or emissive object comprising DNA or RNA structures. The device includes an object holder for positioning the object, a mirror for reflecting an image of the object, and a displaceable camera for selecting a part of the image from the reflected image of the object.

Amended independent claim 36 is directed to a method for selecting an image to be recorded with a camera which forms a part of an irradiated or emissive object comprising DNA or RNA structures. The method includes placing the object in a stationary position, reflecting an image of the object with a mirror, and selecting with a displaceable camera a part of the image of the object to be viewed from the reflected image.

Bacus '860 discloses an apparatus for performing automated classification of cells.

Referring to Fig. 1 of this patent, the apparatus includes a lens (12), a beam splitter (20), and a camera (24). The Examiner stated in paragraph 7 of the Office Action that Bacus '860 teaches that the camera is displaceable in a viewing area substantially parallel to an

axis of rotation of a rotatable mirror having an elongated form. The Examiner further stated that Madden was cited for teaching a rotatable camera (see col. 10, lines 1-4 of Madden), and further stated that rotatable cameras are well known in the art. Additionally, the Examiner states that Bacus '662 discloses a mirror that is rotatable around a single rotational axis (see col. 27, lines 48-50 and Fig. 3). Further, the Examiner stated that Bacus '860 discloses a radiation source that is disposed on the side of the object remote from the mirror. Moreover, the Examiner stated that several of the claimed limitations in the claims are inherent/well-known features, such as: drive means for displacing a camera, a linear guide means for guiding a camera, and providing a radiation-sealed housing for the device.

The present invention, as set forth in amended independent claims 22 and 36, pertains to selecting and recording an image of an object that comprises DNA or RNA structures. The device includes an object holder for positioning the object, a mirror for reflecting the image, and a displaceable camera for selecting at least part of the image. The method includes placing the object in a stationary position, such as on the object holder, reflecting the image, and selecting at least part of the image with the displaceable camera.

In contrast, Bacus '860 and '662 relate to improvements in relation to classifying and analyzing cells using microscope techniques. Each of these references discloses that the cells may be red blood cells, cells of a pap smear, blood cell neutrophils, and the like. Madden relates to an analyzing technique for visual scenes from a series of images. None of these references is any way analogous to the presently claimed invention as set forth in independent claims 22 and 36. Thus, the Examiner's rejections based on the cited references are improper because the cited references are non-analogous art.

Pursuant to MPEP § 2141.01(a), in determining whether a prior art reference is analogous, it should be determined (1) whether the art is from the same field of endeavor, and

(2) if the reference is not within the field of the inventor's endeavor, whether the reference is still reasonably pertinent to the particular problem with which the inventor is involved. In determining whether the reference is reasonably pertinent to the problem the invention intends to solve, the purpose of both the invention and the prior art are important. Thus, if a reference disclosure has the same purpose as the claimed invention, an inventor may well have been motivated to consider the reference; on the other hand, if it is directed to a different purpose, the inventor would have less motivation to consider it.

Here, the field of technology of the Bacus patents is completely different from the present invention. The field of technology of the present invention relates to the selection and recording of biotechnical samples (i.e., DNA/RNA) of a completely different size and scale than the cellular analysis techniques and apparatus disclosed by the Bacus patents. Applicant respectfully submits that one skilled in the art would not look to the cellular analysis structure of the Bacus patents when seeking to solve the problem associated with selecting and recording biological or biotechnical samples (DNA/RNA). The scale difference between the two fields of endeavor is entirely too great for the Bacus patents to be considered reasonably pertinent to the field of the Applicant's endeavor. Accordingly, there is no motivation in the Bacus patents to arrange a displaceable camera in association with a mirror for selecting a part of an image reflected from an object comprising DNA or RNA structures positioned in an object holder, as set forth in independent claim 22. A similar argument exists for the method set forth in independent claim 36.

In view of the requirements in MPEP § 2141.01(a), the Bacus patents and Madden patent lie in an entirely different field of endeavor from the present invention, and one skilled in the art would not be motivated to look to these references to come up with the present invention. Nor does Bacus or Madden anticipate either claim 22 or claim 36, as now amended.

Application No. 09/937,460
Paper Dated: August 2, 2004
In Reply to USPTO Correspondence of April 1, 2004
Attorney Docket No. 3135-011614

For all the foregoing reasons, independent claims 22 and 36 distinguish over the cited references.

For the same reasons, dependent claims 23-35 and 37-42 are also patentable.

Applicant notes that claims 35 and 41 generally set forth that multiple mirrors may be disposed between the object and the camera. The Bacus patents clearly do not teach or suggest multiple mirrors as set forth in these claims. Madden also does not teach or suggest multiple mirrors as set forth in these claims. Accordingly, Applicant respectfully submits that claims 35 and 41 further distinguish over the cited references.

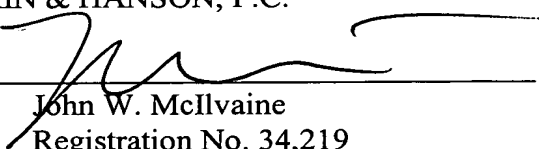
With respect to independent claim 22, Applicant further respectfully notes that independent claim 22 is not anticipated by Bacus '860, as this reference does not teach or suggest that camera (24) is displaceable in any way. Thus, the Examiner's anticipation rejection of claim 22 over Bacus '860 is improper and should be withdrawn.

In conclusion, the Examiner's rejection of the pending claims over the non-analogous prior art references of Bacus '860, Bacus '662, and Madden should be withdrawn. Reconsideration of the Examiner's rejections and allowance of pending claims 22-42 are respectfully requested.

Respectfully submitted,

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